UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of CITY OF ALMATY for Order to Take Discovery Pursuant to 28 U.S.C. § 1782	Misc. Case No. 16-109

DECLARATION OF JULIE R. F. GERCHIK IN SUPPORT OF *EX PARTE* APPLICATION FOR ORDER TO TAKE DISCOVERY PURSUANT TO 28 U.S.C. § 1782

I, Julie R. F. Gerchik, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am an attorney with the law firm Latham & Watkins LLP, and am licensed to practice law in the States of New York and California. I am counsel for Applicant City of Almaty ("Almaty"), and I make this Declaration in support of Almaty's *Ex Parte* Application for Order to Take Discovery Pursuant to 28 U.S.C. § 1782 (the "Application"), filed herewith. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. Almaty submits its Application *ex parte* because the Application does not relate to any existing matter before this Court, and applications under 28 U.S.C. § 1782 are generally made *ex parte*. *See, e.g.*, *In re Hornbeam Corp.*, 2014 WL 8775453, at *1 (S.D.N.Y. Dec. 24, 2014) (granting *ex parte* application to take discovery pursuant to 28 U.S.C. § 1782); *In re Gemeinshcaftspraxis Dr. Med. Schottdorf*, 2006 WL 3844464, at *3 (S.D.N.Y. Dec. 29, 2006) (upholding order granting *ex parte* application to take discovery pursuant to 28 U.S.C. § 1782). Almaty has made no previous application in this Court for similar relief.

3. By its Application, Almaty seeks discovery of non-privileged and highly relevant information for use in 28 ongoing criminal proceedings (the "Criminal Proceedings") in the Republic of Kazakhstan against Viktor Khrapunov ("Viktor"), Leila Khrapunova ("Leila"), Iliyas Khrapunov ("Iliyas"), and Elvira Kudryashova ("Elvira") (collectively, the "Khrapunovs").

THE CALIFORNIA LAWSUIT

4. I was one of the attorneys who represented Almaty in a lawsuit initiated on May 13, 2014, in the United States District Court of California, Case No. CV14-3650-FMO-CW, (the "California Lawsuit") against the Khrapunovs and some of their sham entities, including RPM USA LLC, RPM-MARO LLC, and 628 Holdings LLC. The California Lawsuit was dismissed without prejudice on September 21, 2015, on the grounds of *forum non coveniens*.

5. Almaty subpoenaed records from several banks in connection with the California Lawsuit, including JP Morgan Chase Bank, Wells Fargo Bank, Bank of America, and City National Bank. JP Morgan Chase Bank and Wells Fargo Bank produced documents in response to the subpoenas, but the California Lawsuit was dismissed before they were able to complete their productions.

THE SWISS MUTUAL ASSISTANCE REQUESTS

6. Attached hereto as **Exhibit A** is a true and correct copy of a Mutual Assistance Request, dated February 20, 2012, submitted by the Kazakh government to the Swiss government, with bank account numbers and other sensitive personal information redacted. Attached hereto as **Exhibit B** is a true and correct copy of a certified translation of the February 20, 2012 Mutual Assistance Request, with bank account numbers and other sensitive personal information redacted.

7. Attached hereto as **Exhibit C** is a true and correct copy of an Amended Mutual Assistance Request, dated September 14, 2012, submitted by the Republic of Kazakhstan, through its attorneys at Homburger AG in Switzerland, to the Swiss government, with bank account numbers and other sensitive personal information redacted.

8. Attached hereto as **Exhibit D** is a true and correct copy of a letter dated May 9, 2014 approving the participation of Kazakh investigators in the Swiss criminal proceedings against Viktor and Leila, as it was filed by the defendants in the California Lawsuit. Attached hereto as **Exhibit E** is a true and correct copy of a certified translation of the May 9, 2014 letter, as it was filed by the defendants in the California Lawsuit.

THE RPM ENTITIES

9. Attached hereto as **Exhibit F** is a true and correct copy of the information page of RPM-MARO LLC ("RPM-MARO") as it appeared on the New York Department of State's Corporation & Business Entity Database (http://www.dos.ny.gov/corps/bus_entity_search.html) as of the date of this Declaration.

10. Attached hereto as **Exhibit G** is a true and correct copy of the information page of RPM USA LLC ("RPM USA") (together with RPM-MARO, the "RPM Entities") as it appeared on the New York Department of State's Corporation & Business Entity Database (http://www.dos.ny.gov/corps/bus_entity_search.html) as of the date of this Declaration.

11. Attached hereto as **Exhibit H** is a true and correct copy of the information page of World Health Networks, Inc. as it appeared on the New York Department of State's Corporation & Business Entity Database (http://www.dos.ny.gov/corps/bus_entity_search.html) as of the date of this Declaration.

12. Attached hereto as **Exhibit I** is a true and correct copy of RPM-MARO's Objections and Responses to Plaintiff's Special Interrogatories as they were served on my office on May 4, 2015, in connection with the California Lawsuit.

13. Attached hereto as **Exhibit J** is a true and correct copy of RPM USA's Objections and Responses to Plaintiff's Special Interrogatories as they were served on my office on May 4, 2015, in connection with the California Lawsuit.

14. Attached hereto as **Exhibit K** is a true and correct copy of a "Confidential Information Statement" dated July 8, 2013, bates stamped GE0001314, as it was produced by Granite Escrow to my office on May 11, 2015, in connection with the California Lawsuit, with sensitive personal information redacted.

15. Attached hereto as **Exhibit L** is a true and correct copy of a bank statement for an account held by RPM USA covering the period from November 1, 2012 through November 30, 2012, bates stamped JPM0001015, as it was produced by JP Morgan Chase Bank to my office on July 29, 2015, in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

16. Attached hereto as **Exhibit M** is a true and correct copy of a bank statement for an account held by RPM USA covering the period from February 1, 2013 through February 28, 2013, bates stamped JPM0001028, as it was produced by JP Morgan Chase Bank to my office on July 29, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

17. Attached hereto as **Exhibit N** is a true and correct copy of a bank statement for an account held by RPM USA covering the period from March 1, 2013 through March 29, 2013, bates stamped JPM0001034, as it was produced by JP Morgan Chase Bank to my office on July

29, 2015, in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

18. Attached hereto as **Exhibit O** is a true and correct copy of a bank statement for an account held by RPM USA covering the period from June 4, 2012 through June 29, 2012, bates stamped JPM0000977, as it was produced by JP Morgan Chase Bank to my office on July 29, 2015, in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

19. Attached hereto as **Exhibit P** is a true and correct copy of a bank statement for an account held by RPM-MARO covering the period from July 1, 2014 through July 31, 2014, bates stamped WF0001495, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

20. Attached hereto as **Exhibit Q** is a true and correct copy of a bank statement for an account held by RPM-MARO covering the period from September 1, 2014 through September 30, 2014, bates stamped WF0001505, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

21. Attached hereto as **Exhibit R** is a true and correct copy of a notice of a final rule published by the Financial Crimes Enforcement Network of the U.S. Department of Treasury in the Federal Register on July 22, 2015, publicly available at https://www.gpo.gov/fdsys/pkg/FR-2015-07-29/pdf/2015-18552.pdf.

THE SOHO ENTITIES

22. Attached hereto as **Exhibit S** is a true and correct copy of the information page of Soho 3203 LLC ("Soho 3203") as it appeared on the New York Department of State's Corporation & Business Entity Database (http://www.dos.ny.gov/corps/bus_entity_search.html) as of the date of this Declaration.

23. Attached hereto as **Exhibit T** is a true and correct copy of the information page of Soho 3310 LLC ("Soho 3310") as it appeared on the New York Department of State's Corporation & Business Entity Database (http://www.dos.ny.gov/corps/bus_entity_search.html) as of the date of this Declaration.

24. Attached hereto as **Exhibit U** is a true and correct copy of the information page of Soho 3311 LLC ("Soho 3311") (together with Soho 3203 and Soho 3310, the "Soho Entities") as it appeared on the New York Department of State's Corporation & Business Entity Database (http://www.dos.ny.gov/corps/bus_entity_search.html) as of the date of this Declaration.

25. Attached hereto as **Exhibit V** is a true and correct copy of a bank statement for an account held by Elvira covering the period from April 1, 2013 through April 30, 2013, bates stamped WF0001622, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

26. Attached hereto as **Exhibit W** is a true and correct copy of a deed of sale for condominium unit 3203 in the property located at 246 Spring Street, New York, New York 10013, dated April 30, 2013, as it appeared on the New York City Department of Finance's Office of the City Register's public search database (https://a836-

acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2013050100019001) as of the date of this Declaration.

27. Attached hereto as **Exhibit X** is a true and correct copy of a deed of sale for condominium unit 3203 in the property located at 246 Spring Street, New York, New York 10013, dated September 25, 2014, as it appeared on the New York City Department of Finance's Office of the City Register's public search database (https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2014092901627001) as of the date of this Declaration.

28. Attached hereto as **Exhibit Y** is a true and correct copy of a deed of sale for condominium unit 3310 in the property located at 246 Spring Street, New York, New York 10013, dated April 30, 2013, as it appeared on the New York City Department of Finance's Office of the City Register's public search database (https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2013050100017001) as of the date of this Declaration.

29. Attached hereto as **Exhibit Z** is a true and correct copy of a deed of sale for condominium unit 3310 in the property located at 246 Spring Street, New York, New York 10013, dated May 27, 2014, as it appeared on the New York City Department of Finance's Office of the City Register's public search database (https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2014052901776001) as of the date of this Declaration.

30. Attached hereto as **Exhibit AA** is a true and correct copy of a deed of sale for condominium unit 3311 in the property located at 246 Spring Street, New York, New York 10013, dated April 30, 2013, as it appeared on the New York City Department of Finance's

Office of the City Register's public search database (https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2013050100003001) as of the date of this Declaration.

31. Attached hereto as **Exhibit AA-2** is a true and correct copy of a deed of sale for condominium unit 3311 in the property located at 246 Spring Street, New York, New York 10013, dated October 16, 2015, as it appeared on the New York City Department of Finance's Office of the City Register's public search database (https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2015102801155002) as of the date of this Declaration.

32. Attached hereto as **Exhibit BB** is a true and correct copy of a bank statement for an account held by Soho 3310 covering the period from May 1, 2014 through May 31, 2014, bates stamped WF0000657, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

33. Attached hereto as **Exhibit CC** is a true and correct copy of a Deposit Summary for an account held by Elena Petelina, dated May 30, 2014, bates stamped WF0001516, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

34. Attached hereto as **Exhibit DD** is a true and correct copy of a bank statement for an account held by Soho 3310 covering the period from June 1, 2014 through June 30, 2014, bates stamped WF0000663, as it was produced by Wells Fargo Bank to my office on June 30, 2015, in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

35. Attached hereto as **Exhibit EE** is a true and correct copy of a bank statement for an account held by Soho 3203 covering the period from September 1, 2014 through September 30, 2014, bates stamped WF0000497, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

36. Attached hereto as **Exhibit FF** is a true and correct copy of a bank statement for an account held by Soho 3203 covering the period from October 1, 2014 through October 31, 2014, bates stamped WF0000414, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

37. Attached hereto as **Exhibit GG** is a true and correct copy of a bank statement for an account held by Soho 3203 covering the period from November 1, 2014 through November 30, 2014, bates stamped WF0000423, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

38. Attached hereto as **Exhibit HH** is a true and correct copy of a bank statement for an account held by RPM-MARO covering the period from October 1, 2014 through October 31, 2014, bates stamped WF0001438, as it was produced by Wells Fargo Bank to my office on June 30, 2015 in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

CALIFORNIA PROPERTY TRANSACTIONS

39. Attached hereto as **Exhibit II** is a true and correct copy of a Master Final Settlement Statement dated January 22, 2013, bates stamped GE0000430, as it was produced by Granite Escrow to my office on May 11, 2015, in connection with the California Lawsuit.

40. Attached hereto as **Exhibit JJ** is a true and correct copy of an email from Elvira's and Iliyas' real estate agent, Zach Goldsmith, to their escrow officer, Mark Fishman, dated January 11, 2013, bates stamped GE0000610, as it was produced by Granite Escrow to my office on May 11, 2015, in connection with the California Lawsuit.

41. Attached hereto as **Exhibit KK** is a true and correct copy of an email from Zach Goldsmith to Mark Fishman dated November 26, 2012, bates stamped GE0000697, as it was produced by Granite Escrow to my office on May 11, 2015, in connection with the California Lawsuit.

42. Attached hereto as **Exhibit LL** is a true and correct copy of a City National Bank wire transfer statement dated November 30, 2012, bates stamped GE0000705, as it was produced by Granite Escrow to my office on May 11, 2015, in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

43. Attached hereto as **Exhibit MM** is a true and correct copy of a City National Bank wire transfer statement dated January 18, 2013, bates stamped GE0000708, as it was produced by Granite Escrow to my office on May 11, 2015, in connection with the California Lawsuit, with bank account numbers and other sensitive personal information redacted.

BANK LOCATIONS

44. Attached hereto as **Exhibit NN** is a true and correct copy of a webpage maintained by Citibank, publicly available at

http://www.citigroup.com/citi/about/countrypresence/united-states-usa.html, as it appeared as of the date of this Declaration.

45. Attached hereto as **Exhibit OO** is a true and correct copies of webpages maintained by JP Morgan Bank, publicly available at https://am.jpmorgan.com/private-bank/public/gl/en/global-offices and https://am.jpmorgan.com/private-bank/public/gl/en/global-offices-us-new-york-ny, as they appeared as of the date of this Declaration.

46. Attached hereto as **Exhibit PP** is a true and correct copy of a webpage maintained by Bank of America, publicly available at https://locators.bankofamerica.com/ny/newyork/#, as it appeared as of the date of this Declaration.

47. Attached hereto as **Exhibit QQ** is a true and correct copy of a webpage maintained by Wells Fargo Bank, publicly available at https://www.wellsfargo.com/locator/search/?searchTxt=New+York%2C+NY+10022&mlflg=N&sgindex=99&bo=1&_bo=on&_wl=on&_os=on&_bdu=on&_adu=on&_ah=on&_sdb=on&_aa=on&_nt=on&_fe=on&_ss=on, as it appeared as of the date of this Declaration.

48. Attached hereto as **Exhibit RR** is a true and correct copy of a webpage maintained by City National Bank, publicly available at https://www.cnb.com/sitepages/locator.aspx, as it appeared as of the date of this Declaration.

DECLARATION OF BAUYRZHAN DARMANBEKOV

49. Attached hereto as **Exhibit SS** is a true and correct copy of a declaration executed by Bauyrzhan Darmanbekov on January 19, 2016.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10, 2016 at Los Angeles, California.

Julie R F Gerchik

JULIE R. F. GERCHIK